IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6616 of 2007()

CC.308/2005 of J.M.F.C.-I,KOTTARAKKARA
CRIME NO.94/05 OF KOTTARAKKARA POLICE STATION

.....

PETITIONER : ACCUSED:

---

1. SANTHOSH RAJ, S/O.RAJAN,
SANTHOSH BHAVAN, ERATHUKULAKKADA MURI,
KALAYAPURAM VILLAGE, KOTTARAKKARA TALUK,
KOLLAM.

2. SUBHASH, S/O.PARAMESWARAN PILLAI,
POOTHAKUZHI VEETTIL, ERATHUKULAKKADA MURI,
KALALYAPURAM VILLAGE, KOTTARAKKARA TALUK,
KOLLAM.

3. VISHNUJITH, S/O.KRISHNAN SOMAN,
JITH BHAVAN, KULAKKADA KIZHAKKU MURI,
MAVADI VILLAGE, KOTTARAKKARA TALUK, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
CIRCLE INSPECTOR OF POLICE, KOTTARAKKARA,
KOLLAM DISTRICT THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6616 OF 2007

Dated this the 31st day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 4, 7 and 5 respectively in a crime registered, inter alia, under Secs.379 and 354 of the IPC. The de facto complainant alleged that the 9 accused persons had committed theft of a gold chain worn by her. They had also allegedly cut and removed a tree standing in her property. Investigation was conducted. Final report was filed only against three persons. Later, on the application of the de facto complainant, further investigation under Sec.173(8) of the Cr.P.C. was ordered. That order was attempted to be challenged before this Court; but the challenge was unsuccessful. The further investigation is now being conducted by the Investigator. The petitioners apprehend that they may be arrested and detained. The alleged occurrence took place in 2005. The learned

counsel for the petitioners submits that the petitioners may not, at this point of time, be compelled to suffer the undeserved trauma of arrest and detention.

2. The learned Public Prosecutor does not oppose the application. The learned Public Prosecutor only submits that the Investigator may be given an opportunity to interrogate the petitioners and to complete the further investigation expeditiously.

3. I am satisfied that the directions under Sec.438 of the Cr.P.C. can be issued in favour of the petitioners.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 7/11/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 8/11/07 and 9/11/07. During this period the Investigating Officer shall be at liberty to interrogate the petitioners in custody and take necessary steps.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 7/11/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 7/11/07.

Sd/-
(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge